

**REMARKS**

Review and reconsideration of the Office Action dated October 03, 2006, is respectfully requested in view of the above amendments and the following remarks.

Claims 26-28 have been amended to clarify the invention by clearly indicating that age-associated signs of the skin are being treated. Support for the Claim Amendment can be found on pages 3 and 8 of the specification as originally filed.

**Applicant respectfully requests the Examiner to enter the present amendment in view that the subject matter added to Claims was already part of Claims 26-28. The Claims have been re-worded to clarify the invention and to specifically point out that the composition is used to treat age-associated signs of the skin.**

No new matter has been added to the Claims by the present amendment.

Applicant believes that the present set of Claims is novel and not obvious over the cited references.

The present set of Claims requires administration of the rhamnolipid of Formula I to treat age-associated signs of the skin; a condition which generally occurs in patients over the age of 40.

Piljac et al. US Patents '232 is directed to dermatological diseases (Column 1, lines 5-9; Column 1, lines 20-25; Column 4, lines 18-25; and the Claims).

Piljac et al. US Patents '675 is directed to autoimmune diseases (Abstract, Column 1, lines 11-15; Column 1, line 65 to Column 2, line 8; through the entire specification and the Claims).

The main difference between the Claims of the present invention and the teaching of the cited references is that the cited references concern the treatment of a disease. The present Claims are not directed to any disease, but to normative age-associated signs of the skin, and concern treatment of these conditions. Diseases and normative aging are two entirely independent conditions, having different origins and causative factors. Effectiveness of a therapeutic as to one condition does not translate to effectiveness for a different, unrelated condition.

Patent protection for discovery of a new use for an old product or process, where no significant change is made in that product or process, can be obtained, if at all, only in the form of a claim for a process.

Applicant's position regarding the references can be found below.

Furthermore, the Examiner is respectfully requested to contact the undersigned at the indicated telephone number to confirm the date and time of the telephone interview set in the Interview Request Form.

#### Office Action

Turning to the Office Action, the paragraphing of the Examiner is adopted.

**Anticipation Rejection**

The Examiner rejected Claims 26-28 under 35 U.S.C 102(b), as being anticipated by Piljac et al (US Patent No. 5,455,232) or Piljac et al. (US Patent No. 5,466,675).

The position of the Examiner can be found on pages 2-4 of the Office Action.

Applicants respectfully traverse.

Basically, the Examiner is of the opinion that the cited references teach a composition comprising the rhamnolipid of Formula I for the treatment of age-associated signs of the skin as required by the present set of Claims.

Applicants reviewed the cited references and note that compared with independent Claim 26, both references fail to teach: 1) a method for treating age-associated signs of the skin and 2) promoting the re-epithelization of the skin.

**Regarding Point 1**

Applicants note that the Examiner recognized that the cited references are silent regarding the use of rhamnolipid in the treatment of age-associated signs of the skin. Unfortunately, the Examiner is ~~on~~ of the opinion that because the cited references do not identify their patients as infants, then the patients of the cited reference fall into the category of the patients of the present invention.

Applicants respectfully request the Examiner to reconsider his position in view of the following remarks:

The present set of Claims requires administration of the rhamnolipid of Formula I to treat age-related signs of the skin, a condition which generally occurs in patients over the age of 40. See attachment A.

Piljac et al. US Patents '232 is directed to dermatological diseases (Column 1, lines 5-9; Column 1, lines 20-25; Column 4, lines 18-25; and the Claims).

Piljac et al. US Patents '675 is directed to autoimmune diseases (Abstract, Column 1, lines 11-15; Column 1, line 65 to Column 2, line 8; through the entire specification and the Claims).

The main difference between the Claims of the present invention and the teaching of the cited references is that the cited references concern the treatment of a disease. The present Claims are not directed to any disease, but to normative age-associated signs of the skin, and concern treatment of these conditions. Diseases and normative aging are two entirely independent conditions, having different origins and causative factors. Effectiveness of a therapeutic as to one condition does not translate to effectiveness for a different, unrelated condition.

Thus, the following can be seen:

(1) The cited references are concerned with a different clinical condition from that with which the present invention is concerned. The Claims are now directed to "age-associated signs of the skin", a condition in which otherwise healthy people over the age of 40 experience a decline in the skin appearance compared to their skin appearance in earlier adulthood. This is distinct from skin diseases or autoimmune diseases that are concerned with problems of the skin.

(2) The cited references with respect to treating patients suffering from diseases with rhamnolipid of Formula I does not render obvious the use of rhamnolipids of Formula I for treatment of age-associated signs of the skin.

**Regarding Point 2**

Both of the cited references fail to teach that the composition according to Formula I promotes the re-epithelization of the skin.

Applicants respectfully remind the Examiner that the present rejection is an anticipation rejection and the references must show all the elements of the Claims.

Applicants respectfully request that the Examiner point out where in the specification of the cited references can be found the teaching or suggestion that the composition of Formula I promotes the re-epithelization of the skin.

Patent protection for discovery of a new use for an old product or process, where no significant change is made in that product or process, can be obtained, if at all, only in the form of a claim for a process.

The Patent Office took the position that a new use for an old product could in fact be claimed as a method. In *Ex parte Muller* (1947),

In view of the above arguments, the cited reference does not anticipate the present set of claims.

Accordingly, withdrawal of the rejection is respectfully requested.

**Anticipation Rejection**

The Examiner rejected Claims 26 and 28 under 35 U.S.C 103(a) as being anticipated by Ishigami (US Patent No. 4,902,512).

The position of the Examiner can be found on pages 4-5 of the Office Action.

Applicants respectfully traverse.

Basically, the Examiner is of the opinion that the cited references teach a composition comprising the rhamnolipid of Formula I for the treatment of age-associated signs of the skin as required by the present set of Claims.

Applicants reviewed the cited reference and note that compared with independent Claim 26, the reference fails to teach: 1) a method for treating age-associated signs of the skin and 2) promoting the re-epithelization of the skin.

**Regarding Points 1 -2**

The reference relates to liposomes having a bilayer composed of rhamnolipid A, rhamnolipid B or a salt thereof.

The reference is silent regarding the use of the rhamnolipid for treating age-associated signs of aging.

The reference only mentioned the term "skin" to indicate that the composition does not irritate the skin of the patient.

**Thus, the reference fails to teach using the composition having an active ingredient, a rhamnolipid of Formula I for age-associated signs of the skin.**

U.S. Application No.: 09/644,984  
AMENDMENT B

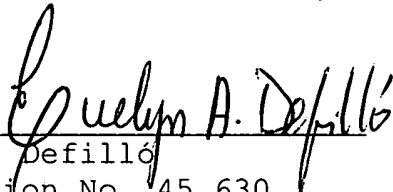
Docket: 1003.010

Accordingly, withdrawal of the rejection is respectfully requested.

Favorable consideration and early issuance of the Notice of Allowance are respectfully requested. Should further issues remain prior to allowance, the Examiner is respectfully requested to contact the undersigned at the indicated telephone number to confirm the date and time of the interview.

Respectfully submitted,

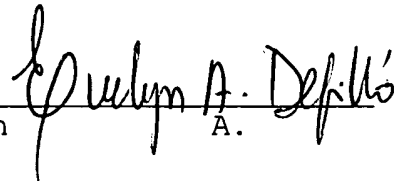
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Date: December 11, 2006

**CERTIFICATE OF MAILING**

I hereby certify that the foregoing AMENDMENT B, for U.S. Application No. 09/644,984 filed August 24, 2000, was deposited in first class U.S. mail, with sufficient postage, addressed to: Mail Stop AF Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on **December 11, 2006.**

  
Evelyn A. Defillo